

Message Text

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ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 AID-05 EB-08 SSO-00 /030 W
-----109881 300858Z /12

O 300755Z AUG 77

FM AMEMBASSY KABUL

TO SECSTATE WASHDC IMMEDIATE 4233

AMEMBASSY ISLAMABAD

C O N F I D E N T I A L SECTION 1 OF 2 KABUL 6095

STATE FOR OPIC, AID FOR NE/CD; ISLAMABAD FOR RLA ZARR

E.O. 11652: GDS

TAGS: EVIN

SUBJ: FISCHBACH KAJAKAI POWER PLANT CLAIM

REF: STATE 204918

1. ON MORNING OF AUGUST 29, CHARGE MET WITH SAMAD GHUAS, DEPUTY FOREIGN MINISTER; AND JUMA MOHAMMAD MOHAMMADI, MINISTER OF WATER AND POWER. CHARGE'S PRESENTATION COVERED POINTS IN REFTEL. A MEMORANDUM, PREPARED BY THE EMBASSY EXPLAINING THE SIGNIFICANCE OF SEPTEMBER 9 AND 30 DATES, WAS ALSO LEFT WITH BOTH GHAS AND MOHAMMADI.

2. GHAS WAS GRATEFUL FOR BEING INFORMED ABOUT OPIC'S POSSIBLE INVOLVEMENT, BUT MADE NO COMMENT ABOUT WHAT ROLE HIS MINISTRY WAS PREPARED TO PLAY TO BRING ABOUT AN EXPEDITIOUS SETTLEMENT. MINISTER MOHAMMADI, HE SAID, WAS THE KEY MAN TO SEE.

3. RIGHT AFTER THE GHAS MEETING, CHARGE MET WITH MINISTER MOHAMMADI AND FOUND HIM WELL INFORMED ABOUT THE NEGOTIATIONS. MOHAMMADI STATED THAT A LETTER FROM THE MINISTRY OF WATER AND POWER (MWP) WOULD BE GIVEN TO FISCHBACH (FOI) THIS WEEK AUTHORIZING
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PAYMENT TO FOI OF DOLS 540,000 FOR QUOTE UNDISPUTED UNQUOTE PORTION OF THE CLAIM. AS FOR THE EXTENDED OVERHEAD CLAIM, HE SAID THE LETTER OFFERED TO NEGOTIATE THIS AND IF NO SETTLEMENT WAS REACHED, THE GOA WAS WILLING TO GO TO ARBITRATION. HE IMPLIED THAT ALL THIS COULD BE ACCOMPLISHED BY SEPTEMBER 9 IF FOI WERE PREPARED TO MOVE THAT FAST.

4. WITH REGARD TO THE SEPTEMBER 30 EXPIRTY DATE OF THE AID LOAN, HE STATED HIS UNDERSTANDING THAT THE LOAN COULD BE EXTENDED BEYOND THAT DATE IF NECESSARY IN ORDER TO REACH A SETTLEMENT OF THE FISCHBACH CLAIM.

5. EMBASSY HAS ALSO DISCUSSED THE CURRENT STATE OF NEGOTIATIONS WITH JOHN GIVENS, FOI REPRESENTATIVE IN KABUL. GIVENS BELIEVES THAT PROGRESS IS BEING MADE TOWARD SETTLEMENT OF ALL THE CLAIM. HE FEELS THAT ONCE THE DOLS 540,000 PAYMENT FOR THE UNDISPUTED PORTION IS MADE, THE REMAINING CLAIM FOR EXTENDED OVERHEAD COSTS WILL BECOME A LESS AWESOME FIGURE FOR THE AFGHANS TO CONTEMPLATE. MOREOVER, WE NOTE THAT IT IS THE EXTENDED OVERHEAD PORTION OF THE CLAIM WHERE FOI HAS SHOWN WILLINGNESS TO MAKE CONCESSIONS TO THE AFGHANS. THESE FACTORS, PLUS THE EXISTENCE OF A SIZEABLE BALANCE IN THE AID LOAN AND THE POTENTIAL FOR RECOVERY OF DAMAGES BY THE GOVERNMENT OF AFGHANITAN (GOA) FROM THE SUPPLIER (WESTINGHOUSE), LEAD GIVENS TO BELIEVE THAT A SETTLEMENT PACKAGE PALATABLE TO THE AFGHANS IS POSSIBLE. HOWEVER, ANY AGREEMENT REACHED BETWEEN FOI AND MWP MUST ALSO CROSS THE ADDITIONAL HURDLE OF APPROVAL BY THE AFGHAN CABINET.

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6. PARA 14 OF REFTEL REQUESTS OUR VIEW REGARDING ADEQUACY OF FOI'S EFFORTS TO ENGAGE GOA IN MEANINGFUL NEGOTIATIONS AND SUITABILITY OF GIVENS AS A NEGOTIATOR. WE FEEL MAIN DETERRENTS TO PROGRESS IN SETTLEMENT HAVE BEEN RELUCTANCE OF MWP TO ACCEPT LEGITIMACY OF FOI CLAIM AND TO CREATE A MECHANISM FOR REACHING A DECISION ON THE CLAIM. FOR EXAMPLE, FOI SENT A NEGOTIATOR TO KABUL IN SPRING 1977 WHO COOLED HIS HEELS FOR A MONTH WITHOUT BEING ABLE TO SEE ANYONE OF IMPORTANCE IN THE AFGHAN GOVERNMENT REGARDING THE CLAIM. NEGOTIATIONS WITH MWP ON THE CLAIM WERE ONLY INITIATED AFTER INTERVENTION BY THE EMBASSY AND THE MINISTRY OF FOREIGN AFFAIRS. THE NEGOTIATIONS FAILED TO PROGRESS TOWARD A SETTLEMENT BUT PERHAPS DID ESTABLISH THE MWP THE LEGITIMACY, IN PRINCIPLE, OF THE FOI CLAIM. SINCE THE FORMAL NEGOTIATIONS WHICH BROKE OFF IN MARCH, GIVENS SEEMS TO HAVE ACHIEVED BETTER RESULTS BY WORKING QUIETLY WITH MWP OFFICIALS. GIVENS HAS A CALM, PLEASING PERSONALITY AND IS RESPECTED AND LONG-EXPERIENCED IN AFGHANISTAN. AS A NEGOTIATOR, WE RATE HIM HIGHLY. WE WOULD NOT RECOMMEND HE BE

REPLACED.

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FM AMEMBASSY KABUL
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AMEMBASSY ISLAMABAD

C O N F I D E N T I A L SECTION 2 OF 2 KABUL 6095

STATE FOR OPIC, AID FOR NE/CD; ISLAMABAD FOR RLA ZARR

7. COMMENT: IN VIEW OF THE REMAINING DIFFICULTIES,
WE CONSIDER IT UNLIEKLY THAT A FINAL CLAIM SETTLEMENT
CAN BE REACHED BY SEPTEMBER 9; AND IT MAY BE TOO
OPTIMISTIC TO HOPE THAT THE SLOWLY GRINDING WHEELS
OF AFGHAN BUREAUCRACY CAN COMPLETE THE PROCESS BY
SEPTEMBER 30.

8. ON THE OTHER HAND, PROGRESS IS BEING MADE AND
NEGOTIATIONS ARE MOVING MORE QUICKLY THAN AT ANY
TIME IN THE PAST. GIVENS AND MOHAMMADI ARE OPTIMISTIC
ABOUT FURTHER PROGRESS IN SETTLEMENT OF THE CLAIM;
THE EMBASSY BELIEVES THAT WITHOUT OPIC INTERFERENCE
A FINAL AGREEMENT MAY NOT BE FAR OFF. WERE OPIC TO
INTERVENE AT THIS TIME, WE THINK IT COULD BE COUNTER-
PRODUCTIVE. IT WOULD BE PREFERABLE, IN OUR OPINION,
TO ALLOW GIVENS AND MWP A LITTLE MORE TIME TO
TACKLE THE QUESTION OF OVERRUNS AND, IF AN AGREEMENT
CANNOT BE REACHED, THE GOA NOW SAYS IT IS PREPARED
TO GO TO ARBITRATION.

9. WE ARE KEEPING IN CLOSE TOUCH WITH GIVENS AND
WILL REPORT HIS REACTION WHEN HE RECEIVED THE MWP
LETTER.

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